

UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

GEA SEASIDE INVESTMENT, INC.

Case No.: 3:13-bk-00165

Chapter 11

Debtor,

/

JACK ABERMAN

Case No.: 3:13-bk-00167

Chapter 11

Debtor.

/

**MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY RULE 2004 DIRECTING THE EXAMINATION OF JACK ABERMAN
GEA SEASIDE INVESTMENT, INC.**

SELECT PORTFOLIO SERVICING, INC. AS SERVICING AGENT FOR U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE TERWIN MORTGAGE TRUST 2006-5 ASSET-BACKED SECURITIES, SERIES 2006-5, (“Movant”), by and through its undersigned counsel, hereby file this motion (the “Motion”) pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, seeking the entry of an order directing examination of JACK ABERMAN, individually and as officer and/or director of GEA SEASIDE INVESTMENT, INC., under oath at a telephonic Rule 2004 Examination Duces Tecum on May 15, 2013 at 10:00 a.m. at the offices of Debtor’s counsel (or on such other date as mutually agreed to between the parties).. In support of the Motion, Movant respectfully submits as follows:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (O). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. Movant is a party in interest in this case by virtue of its security interest for a loan property of the Debtor.

3. On March 6, 2008 (the "First Petition Date"), Jack Aberman (the "Aberman") and GEA Seaside Investments, Inc. ("GEA"), (collectively referred as "Joint Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code. (Cases No. 6:08-bk-01693-KSJ and 6:08-bk-1695-KSJ)

4. On January 23, 2012, the Joint Debtors filed a motion to dismiss the cases for cause. The Joint Debtors indicated that cause existed to dismiss the cases pursuant to 11 U.S.C. § 1112(b) because dismissal was in the best interests of creditors, and stated as follows:

- (i) the Joint Debtors had essentially no assets to administer in chapter 7 cases;
- (ii) dismissal would allow secured creditors to immediately exercise their nonbankruptcy remedies relating to their collateral; and
- (iii) dismissal would avoid the substantial costs associated with converting and administering these cases under Chapter 7.

5. On February 24, 2012, the Court granted the above-referenced motion to dismiss without prejudice.

6. On or about January 10, 2013 (the "Second Petition Date"), the Debtor and GEA Seaside Investment, Inc. filed a voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code.

7. Movant is the servicer for owner of a Promissory Note (the "Note") and a Mortgage, Security Agreement, Assignment Of Rents (the "Mortgage") recorded in Official Records Book 5745, Page 4626 public records of Volusia County, Florida, executed by Aberman and evidencing a loan in the original principal amount of \$229,500.00 (the "Loan").

8. The Mortgage encumbers the real property (the "Property") more specifically described 316 BUTLER BOULEVARD, DAYTONA BEACH, FL 32118.

9. Title to the Property is vested in GEA which owns a total of 42 parcels of real estate and improvements in Volusia County, Florida, all of which are operated as residential or commercial tenancies, from which GEA derives its operating revenue.

Relief Request

10. Pursuant to Bankruptcy Rule 2004, Federal Rules of Bankruptcy Procedure, on motion of any party in interest, the Court may order the examination of any entity or entities. Pursuant to Bankruptcy Rule 2004(b), the examination may relate to the acts, conduct, or property of the Debtor, or to any matter that may affect the administration of the Debtor's estate. Rule 2004 also permits a party to serve related discovery, including, but not limited to, request for the production of documents.

11. Movant have a strong interest in determining the extent of Debtor's income and prospects for future income in order to determine the feasibility of reorganization of the Debtors.

12. Moreover, Movant would like to investigate certain facts with respect to the change in financial circumstances from date of dismissal of Debtor's last bankruptcy filing to the date of filing the instant case.

WHEREFORE, Movant respectfully requests this Court issue an Order: (i) directing JACK ABERMAN, individually, and as officer and/or director of GEA SEASIDE INVESTMENT, INC.to submit to a telephonic examination by Movant on May 15, 2013 at 10:00 p.m. at the offices of Debtors' counsel (or on such other date as mutually agreed to between the parties), (ii) granting Movant authority to issue discovery in connection with the examination, and (iii) granting such other relief as the Court deems just and proper.

Dated: April 18, 2013.

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I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the parties and addressees listed in the attached mailing list by First Class U. S. Mail postage prepaid and/or electronic mail this 18 day of April, 2013.

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